

The other objection which I think should be dealt with is that the minister appears to draw a very neat line between manufacturing and retail levels when it comes to unit pricing. When dealing with this matter in committee he suggested that we could not apply unit pricing at the manufacturing level because that would contravene legislation in respect of resale price maintenance. He is quite correct in this statement, but we suggest that unit pricing should be instituted at the retail level. The minister at once says that we cannot do anything at the retail level because that falls within provincial jurisdiction and we cannot interfere through federal legislation.

If this is the fact, the minister is on very shaky and slippery ground in respect of the legislation we are now in the process of passing. Under this legislation his inspectors can go into a retail establishment and hold up the sale of goods which they suspect are not being labelled correctly. They can keep these goods out of circulation until such time as their labels are brought into conformity with the legislation. If the minister claims to be unable under this legislation to deal with the retail trade yet he can deal with the retail trade to the extent of keeping goods from being sold until their labels conform with this legislation, then I maintain the minister could very well take a chance on asking the retail trade to put unit pricing labels on packages where he considers it necessary in order to avoid deceiving the consumer. I think a very good case can be made in this regard.

If the minister is correct in saying he cannot do anything at the retail level because this falls within provincial jurisdiction, what does he mean by introducing the term "dealer" in this legislation and under it defining a manufacturer and a retailer? If a retailer is brought under this legislation, as he is in various contexts, then I maintain that the minister, having this power to interfere with the retailer, also has the power to do so in respect of unit prices.

I now come to my reference to Professor Ziegel whom the minister quoted so enthusiastically this afternoon. In a letter which was addressed to the Standing Committee on Health, Welfare and Social Affairs, dated February 12, 1971, Dr. Ziegel of York University, Osgoode Law School, said this under the heading "Constitutional Aspects of Unit Pricing":

In giving evidence before your committee on January 14th last, the Honourable Ron Basford left the impression that the federal government lacks the constitutional power to impose unit pricing at the retail level. I do not know the source of the minister's opinion but it seems to me to be open to serious question. I incline to the view that if the present provisions of Bill C-180 are *intra vires* then a provision empowering the Governor in Council to impose unit price requirements for all or some commodities offered for retail sale to prevent the deception of consumers would also be constitutional.

He goes on to say:

The criminal law power has been held to justify the federal Food and Drugs Act and, presumably, it is also the basis upon which the federal government would seek to justify much of the other recent federal consumer protection legislation such as the Textile Labelling Act, the Hazardous Products Act and, to a lesser extent, the Motor Vehicles Safety Act.

### *Consumer Packaging and Labelling Act*

I would point out to the minister that the foundation of Bill C-180 is the criminal law of Canada. I would also point out that the whole-constitutionality of this bill rests on the criminal law of Canada. The criminal law which the minister is invoking has jurisdiction over deception in all its forms. Deception in all its forms is a criminal offence and therefore is a federal responsibility. If without unit pricing certain types of packages cannot be displayed on the shelves without the deception of the consumer being inherent in their display, then I maintain the minister not only has the authority but also the responsibility to adopt unit pricing as a means of preventing the deception of the consumer.

• (8:20 p.m.)

I think it is just as much the minister's function to protect the consumer in respect of unit pricing as it is to protect the consumer in respect of deceptive sizes, weights, deceptive labelling, and so on. Furthermore, I have a suspicion that if the minister wished to do so he could find ways and means to do this, because he has already found ways and means to do things which Professor Ziegel considers to be on an equal footing. He found ways and means to justify the Hazardous Products Act, the Textile Labelling Act and the Motor Vehicles Safety Act.

Even if the minister should consider it a serious gamble to bring in such legislation, he has taken a similar gamble before. I have not heard that the other legislation in respect of which he has taken the gamble has been questioned. I have no doubt that if its constitutionality should be brought into question, the minister would be the first to gather together a strong battery of legal talent and go after it with all the force of the Department of Justice behind him. I say to the minister that I for one do not share his opinion, and I might add that my opinion is shared by persons other than Professor Ziegel.

I do not think there is any more gamble in bringing in unit prices than there was in respect of many other pieces of legislation. This is in direct line with the other provisions in the bill. If unit pricing is not within the minister's power, then neither is Bill C-180. I wish the minister would get off the fence and let us know whether he is on the side of the consumer or against the consumer in respect of this legislation.

Furthermore, I urge the minister to bring in unit pricing now, and if a case should be brought against it he should be willing to defend it just as he would any other provision in the bill. If, on the other hand, the minister feels he cannot take this gamble—and he has already proven he is a good gambler—I would ask him to be willing to test this legislation before the Supreme Court to see whether or not he could bring in an amendment to the legislation to this effect—because I am convinced such legislation is needed for the protection of the Canadian consumer.

In many ways this legislation is very good. We in this group do not begrudge the minister the wide discretionary powers in this bill, because we have seen legislation the minister has passed which is genuinely useful to the consumer. I should like to see him go further in certain